

Bylaws of the Ravalli County Board of Adjustment

Section 1. Authority

The Ravalli County Board of Adjustment was established on February 1, 2007, with the passage of Resolution 2032 by the Ravalli County Board of Commissioners, in accordance with an interim zoning initiative entitled, "An Interim Zoning Regulation Limiting Subdivisions to a Density of One Residence Per Two Acres for a Period of One Year," enacted on November 7, 2006, by the voters of Ravalli County, and with 76-2-221 through 76-2-228, Montana Code Annotated (MCA).

Section 2. Jurisdiction.

The jurisdiction of the Board of Adjustment shall be limited to the unincorporated areas of Ravalli County.

Section 3. Definitions

Applicant:	One who requests a variance or special exception from the zoning regulations
BCC:	The Ravalli County Board of Commissioners
Board:	The Ravalli County Board of Adjustment
Chairman:	The Chairman of the Ravalli County Board of Adjustment or, in his absence, the acting Chairman.
County:	Ravalli County
Member:	A member of the Ravalli County Board of Adjustment
Special Exception:	Synonymous with "variance," in reference to the interim zoning regulations enacted November 7, 2006
Staff:	The staff of the Ravalli County Planning Department
Variance:	A deviation from the strict application of the zoning regulations, as requested by application to the Board of Adjustment and approved by the Board based upon the specific criteria listed in the zoning regulations
Zoning Regulations:	The interim zoning initiative entitled, "An Interim Zoning Regulation Limiting Subdivisions to a Density of One Residence Per Two Acres for a Period of One Year," enacted November 7, 2006, or any zoning regulations with

which the Board is charged, through BCC resolution, to administer

Section 4. Powers and Duties

- (A) The Board has the power and duty to:
- (1) Adopt operating rules and procedures for public hearings and other business of the Board in accordance with the zoning regulations.
 - (2) Keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed with the Planning Department and shall be available for public inspection.
 - (3) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning regulation.
 - (4) Authorize, upon appeal in specific cases, such variance from the terms of the zoning regulations as will not be contrary to the public interest and where, owing to special conditions listed in the zoning regulations, a literal enforcement of the provision of the resolution will result in unnecessary hardship and so that the spirit of the resolution shall be observed and substantial justice done.

Section 5. Membership

- (A) The Board shall consist of five members, each to be appointed by the BCC.
- (B) Each member shall be appointed for a term of two years, with the following exceptions:
- (1) The initial appointment of Board members shall include two members who will serve one-year terms, in order to stagger the terms and ensure continuity.
 - (2) The BCC may remove any member upon written charges and after a public hearing.
 - (3) In the event of a vacancy, the BCC shall appoint a replacement member to fill the remainder of the unexpired term.
- (C) Members of the Board are entitled to travel and other expenses incurred on Board business only. Members shall not receive a salary for their services on the Board.

- (D) Each member shall, upon appointment, reside within an unincorporated area of Ravalli County. If a member moves into an incorporated area of Ravalli County during his term, he shall be allowed to remain on the Board until his term expires. A member who moves out of Ravalli County during his term shall thereby vacate his position on the Board.

Section 6. Officers and Duties

- (A) At its first regular meeting of each calendar year, the Board shall elect a Chairman and a Vice-Chairman from among its members. In the event that the Chairman is no longer able to serve in that capacity, the Vice-Chairman will succeed to the position of the Chairman and serve the balance of the term. The Board shall elect a new Vice-Chairman to serve the balance of that term.
- (B) Duties
- (1) Meetings of the Board shall be held at the call of the Chairman.
 - (2) The Chairman shall preside at all meetings and hearings, call special meetings, and perform the duties normally conferred by parliamentary usage on such offices, and such other duties as may be properly prescribed.
 - (3) The Chairman may enter into discussions of matters before the Board.
 - (4) The Chairman shall vote on all issues before the Board.
 - (5) When the Chairman is absent, disabled, or disqualified, the Vice Chairman has the authority to act as Chairman.
 - (6) In the event of a tie vote on any matter before the Board, the matter can be reconsidered at the next meeting of the Board.
 - (7) In the temporary absence of both the Chairman and Vice Chairman, the Chairman may designate a Board member as acting Chairman.
 - (8) The right to vote of all members shall be subject to the provisions of Section 6(E).

Section 7. Meetings

- (A) Regular Meetings
- (1) The Board shall meet at least once each month.
 - (2) The Board shall designate a specific day of the month as its regular meeting period.

- (3) Staff shall arrange for a suitable meeting place for each meeting of the Board.
 - (4) All meetings and business of the Board shall be open to the public.
 - (5) In accordance with State law and the rules and procedures adopted by the Board, staff shall arrange for the publication of necessary legal advertisements and notifications to affected parties prior to each meeting.
- (B) Special Meetings
 - (1) Either the Chairman or three (3) members making written request therefore to staff may call a special meeting.
 - (2) Staff shall send written notice to all members of any special meeting at least two (2) days in advance.
- (C) Quorum
 - (1) Three (3) members of the Board constitutes a quorum.
 - (2) All action of the Board shall be authorized by a vote of three (3) members.
- (D) Robert's Rules of Order shall apply in all parliamentary matters unless these bylaws otherwise provide.
- (E) Conflict of Interest
 - (1) A conflict of interest exists when a member of the Board:
 - (a) has a financial or property interest in a matter under consideration by the Board.
 - (b) represents a party having such an interest.
 - (c) resides or owns property within 300 feet of the subject property of appeal, variance or special exception.
 - (d) feels that he should be disqualified for any reason not listed above.
 - (2) Before consideration of the matter, the Chairman shall announce the name of any member so disqualified and the reasons therefore, and the disqualification shall be entered in the minutes of the meeting.
 - (3) Thereafter, the member shall be excused from the meeting during consideration of the matter and shall not participate in consideration or voting thereon.
 - (4) The excused member may participate as a part of the public in attendance in providing information to the Board.

Section 8. Conduct of Meeting

- (A) Unless otherwise voted, the order of business at regular meetings shall be:
 - (1) Call to order
 - (2) Roll call
 - (3) Reading of minutes and action thereon
 - (4) Disclosure of possible/perceived conflicts of interest
 - (5) Correspondence
 - (6) Public hearings
 - (a) Staff report
 - (b) Applicant's presentation
 - (c) Public comment
 - (d) Board deliberation and action
 - (7) Communications from Staff
 - (8) Communications from Public
 - (9) Communications from Board
 - (10) Old Business
 - (11) New Business
 - (12) Adjournment
- (B) The Board may vote to dispense with any item on the agenda or to change the order of business.
- (C) New business may be introduced for the purpose either of Board action at a future meeting or referral to a committee or the staff for study or consideration.

Section 9. Public Hearing

- (A) When required.
 - (1) Appeals, variances, and special exceptions require a public hearing.

- (2) The Board may elect to delay its decision on a variance or special exception until the next regularly scheduled meeting following the public hearing.
 - (3) Any request for a rehearing shall comply with the same procedures as an original request pursuant to the zoning regulations.
- (B) Staff shall prepare, publish and post notices of public hearings in accordance with State law and/or procedures adopted by the Board, as applicable.
- (C) Procedures
 - (1) Duties of the Chairman
 - (a) Preside at all public hearings.
 - (b) State a summary of the questions or issue to be addressed at the opening of the hearing, limiting its contents to the subject advertised for hearing.
 - (c) Outline the agenda for the hearing and expectations for conduct.
 - (d) Assure an orderly hearing, having the power to expel individuals or to terminate the hearing if, in the Chairman's opinion, persons disrupt the orderly conduct of business.
 - (e) Announce that all questions and comments shall be directed through the Chairman only after the speaker has been properly recognized.
 - (f) Announce that the applicant or his representative must be present, and that absence is a ground for disapproval.
 - (g) Direct each speaker recognized to give their name and address, spelling of their last name, and if appropriate, the name of the person, firm or organization the speaker represents.
 - (h) Direct that copies of prepared statements and all other material presented at the hearing be given to staff and the Chairman to become a part of the record.
 - (i) Call first for the staff report then statements from the proponents, then give opponents equal opportunity for comment.
 - (j) Close the hearing to the receipt of public testimony when all who wish to speak have spoken, or if the time limit set by the Board has expired.
 - (k) Declare the hearing to be closed or state the time, place, and date upon which the hearing will be continued, after Board members,

being properly recognized at the conclusion of public testimony, have completed questioning of any person presenting testimony.

- (l) The Chairman may administer oaths and compel the attendance of witnesses.
- (2) Duties of staff:
 - (a) Present a report that summarizes the proposal and outlines staff's recommendations to the Board.
 - (b) Read the legal advertisement and announce the dates upon which the advertisement appeared and also the name of the newspapers they appeared in.
 - (c) Take minutes and electronically record the proceeding at each hearing in which an ultimate right of appeal lies to the district court.
- (3) Power of Board:
 - (a) The Board may set a reasonable time limit for the receipt of public testimony.

Section 10. Recommendations and Findings

(A) Recommendations

- (1) Variances and Special Exceptions: Staff shall present a written recommendation along with a report of all facts and requirements pertaining to the application.
- (2) Appeals from the actions of an administrative official: Staff shall present all documents relating to the appeal, including copies of the letter sent to the appellant wherein the issuance of a zoning compliance permit was denied. Staff shall not present any recommendation on the appeal, but may be asked to provide factual information.

(B) Findings

- (1) Variances and Special Exceptions: The Board is bound by the criteria set forth in the zoning regulations. After the Board has reached a decision on the variance, the Chairman shall dictate, draft, or instruct staff in preparing the written findings.
- (2) Appeals: The Board may, in conformity with Title 76, Chapter 2, Part 2, MCA, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that

end shall have all the powers of the officer from whom the appeal is taken.

Section 11. Committees

- (A) The Chairman may appoint special committees for such purposes and terms as the Board provides.
- (B) Reports
 - (1) A reference to committee shall contain the date for report to the Board.
 - (2) Each committee report may be written and may contain both majority and minority opinion.
 - (3) A copy of each committee report shall be submitted to the Chairman for inclusion in the permanent records of the Board.
- (C) Staff Attendance
 - (1) Staff shall attend committee meetings and participate in discussions, presenting relevant information and alternatives.
 - (2) The Board may request the attendance of other staff personnel.

Section 12. Legal Assistance

The Board may seek legal assistance from the County Attorney.

Section 13. Amendments

- A. Any amendment to these bylaws shall be proposed in writing by any member at a regular meeting.
- B. Approval of the proposed amendment requires an affirmative vote of three (3) Board members on second reading at any meeting properly called subsequent to the proposal.